

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 15, 2010
POSITION: Oppose

BILL NUMBER: AB 2627
AUTHOR: J. Nielsen

BILL SUMMARY: Veterans: Contracts: Disabled Veterans Businesses

This bill would re-codify, in the Public Contract Code, the criteria for businesses to qualify as a disabled veteran business enterprise (DVBE). This bill also makes changes to provisions pertaining to business utilization plans (BUPs) and to the minimum information requirements for BUPs as submitted by minority, women, or disabled veteran business enterprises.

FISCAL SUMMARY

The Department of General Services (DGS) indicates the implementation of this bill would result in one-time costs in the 2010-11 fiscal year of \$222,000 for services related to the rulemaking hearing and to support 1.3 positions to develop and draft regulations, prepare for a rulemaking hearing, and modify existing IT systems. Additionally, the DGS indicates this bill would result in annual costs of \$660,000 to support 14 positions to review, certify, oversee, and audit BUPs, train departments on the BUP reporting requirements, prepare legislative reports, and develop and implement forms, processes, and procedures related to BUPs.

This bill would also result in unknown costs for the following:

- Tracking and reporting by awarding departments.
- Investigative and civil filing costs for the Department of Justice related to BUP program fraud.
- Public hearings as required for denial of certification in the BUP program.
- Additional DVBE bid incentives provided to contractors utilizing the BUP program.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 8, 2010 version include the following significant amendments which do change our position:

- The previous provisions of this bill regarding DVBE participation credit for broker and equipment broker commissions were removed in their entirety and replaced.

COMMENTS

The Department of Finance opposes this bill for the following reasons:

- The provisions allowing indirect costs to be applied to BUP goals would result in contractors receiving the DVBE preference although the subcontracted DVBE is not performing work directly on the state contract.
- Expanding the list of the types of contracts for which BUPs must be accepted would result in more bid preferences offered.

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Analyst/Principal (0242)	Date	Assistant Program Budget Manager	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

J. Nielsen

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AB 2627

COMMENTS (continued)

- Since the use of BUPs does not apply toward achieving DVBE participation goals as specified in Military and Veterans Code Section 999.2(a), the implementation of this bill would result in departments offering additional DVBE incentives to achieve DVBE participation goals.
- A contractor with an approved BUP would be granted the same bid preference as a contractor committed to using a DVBE directly on a contract.

Existing law within the Military and Veterans Code provides definitions relating to DVBEs and criteria for businesses to be classified as a DVBE. Existing law also requires that if a solicitation specifies higher participation goals than a bidder's approved BUP, the bidder shall meet the goals in the solicitation.

This bill would do the following:

- Permits direct and indirect costs to be applied to BUP goals.
- Expands the list of contract types for which approved BUPs must be accepted.
- Permits bidders to amend their BUP in the event a solicitation specifies higher participation goals than those in the bidder's original BUP.
- Provides definitions relating to DVBEs and criteria for businesses to be classified as a DVBE in the Public Contract Code.
- Rename the Office of Small and Minority Business to the Office of Small Business and Disabled Veteran Business Enterprise Services.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
0820/Justice	SO	No	-----	See Fiscal Summary	-----				0001
1760/Dept Gen Svc	SO	No	-----	See Fiscal Summary	-----				0666
9901/Var Depts	SO	No	-----	See Fiscal Summary	-----				0001
9901/Var Depts	SO	No	-----	See Fiscal Summary	-----				0494
9901/Var Depts	SO	No	-----	See Fiscal Summary	-----				0988

<u>Fund Code</u>	<u>Title</u>
0001	General Fund
0494	Other - Unallocated Special Funds
0666	Service Revolving Fund
0988	Other - Unallocated NGC Funds